

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CRIMINAL CASE NO. 1:11cr10**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
	)	
<b>vs.</b>	)	<b><u>ORDER</u></b>
	)	
	)	
<b>JAMES W. "BILL" BAILEY, JR.</b>	)	
<hr style="width:40%; margin-left:0"/>	)	

**THIS MATTER** is before the Court on the Friend of the Court Motion to Appoint a Guardian to Protect the Interests of Unfiled Claimants [Doc. 136], filed by attorneys Robert E. Dungan and James W. Kilbourne, Jr.

Attorneys Dungan and Kilbourne move the Court to appoint them as guardians to protect the interests of those as yet unidentified parties who may seek to assert claims with respect to the assets delineated in the Consent Order and Judgment of Forfeiture entered in this case. Counsel concede that there is not a basis in federal procedural law for their request, nor do they cite to any federal law providing them standing or grounds to argue for such an appointment.

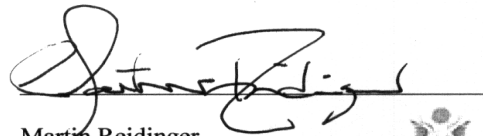
Section 853(n) provides the exclusive means for challenging a criminal forfeiture order. United States v. Phillips, 185 F.3d 183, 186 (4th

Cir. 1999); Powell v. Keller, No. 5:03CV160-5-MU, 2004 WL 3259002, at \*\*5-6 (W.D.N.C. Aug. 23, 2004). Nothing in that statutory provision, or in any federal rule of procedure for that matter, provides for the type of appointment sought by counsel. Accordingly, counsel's motion will be denied.

Accordingly, **IT IS, THEREFORE, ORDERED** that the Friend of the Court Motion to Appoint a Guardian to Protect the Interests of Unfiled Claimants [Doc. 136] is **DENIED**.

**IT IS SO ORDERED.**

Signed: May 10, 2011

  
Martin Reidinger  
United States District Judge

